IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 720 of 1993

Date of Decision :- August 03, 2007

Chandu ....PETITIONER

VERSUS

State of Haryana ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL

Present:- Mr. Hari Om Sharma, Advocate
for the petitioner.

Mr. S.S.Patter, Senior D.A.G. Haryana.

MEHTAB S.GILL, J.

This is a revision against the judgment dated 11.10.1993 of the Additional Sessions Judge, Hisar, whereby he modified the judgment dated 29.11.1991 of Addl. Chief Judicial Magistrate, Hisar by reducing the sentence of Chandu son of Ram Singh from one year R.I. to six months.

The case of the prosecution is that on 25.9.1984 at about 6.00 a.m., GFI Abhey Ram along with Dr. D.R.Chugh, Dy. C.M.O. (Health), Hisar intercepted accused Chandu and found 15 Kg. of cow milk in his possession, which was meant for public sale. The Food Inspector gave him a notice on Form VI demanding sample of the said cow milk. He purchased 660 ml. of cow milk after mixing the whole contents and made uniform for analysis on payment of Rs.2/- against receipt Ex.PB. Sample was divided into three equal parts and put in three dry, clean and empty

bottles. Thereafter, they were sealed and labelled. One sealed bottle along with Form VII was sent to Public Analyst, Haryana, Chandigarh for analysis. Two sealed bottles of sample along with two copies of form No.VII were deposited with the LHA on 26.9.1984. The contents were analysed by the Public Analyst Haryana and found milk fat 3.0% Milk solids not fats 4.8%. Milk fat is 25% deficient and mil sold not fat is 39 percent deficient of the minimum prescribed standards. Sample was found adulterated. Petitioner had committed an offence punishable under Section 16(1)(a)(i) read with Section 7 of the Prevention of Food Adulteration Act, 1954.

The prosecution to prove its case brought into the witness box Abhey Ram GFI PW1, Ajmer Singh GFI PW2 and Dr. D.R.Gaur PW3 and Jagdish Clerk LHA PW3.

Learned counsel for the petitioner has argued, that the sample of milk taken for analysis was not made homogeneous. The presence of doctor PW3 was not proved at the spot. No independent witness was produced. Learned counsel has further stated, that petitioner has already undergone 40 days of sentence and a lenient view be taken on the quantum of sentence, as occurrence is of the year 1984 and revision is pending in this Court since 1993.

Learned counsel for the State has rebutted all these arguments put forward by learned counsel for the petitioner/accused.

The independent witness was given up, as having been won over by the petitioner. After going through the statements of GFI Abhey Ram PW1 and other witnesses, it is clear that sample so purchased

by the GFI (PW1) was made homogeneous. As per report of Public Analyst, sample was found containing 25% deficient in milk fat and mil solids not fat 39% and the sample was held to be adulterated and petitioner/accused was found having adulterated the milk for public sale.

I do not find any infirmity in the judgment of the learned Addl. Sessions Judge. Conviction of the petitioner is maintained.

This Court in **Mahavir Vs. State through Govt. Food Inspector, 2000(4) RCR (Crl.) 208** has held that ends of justice would be met if the sentence of the petitioner is reduced to that already undergone. Similarly, Hon'ble Delhi High Court in **Babu Ram Vs. State, 2001(4) RCR (Crl.) 785** has held that this case is also under the Prevention of Food Adulteration Act, 1954, where ends of justice would met if the sentence is reduced to that already undergone.

Revision is of the year 1993 and the sample was taken into possession on 25.9.1984. 23 years have elapsed. Sword of conviction is hanging on the head of the petitioner for a long time. This itself is a punishment. Sentence of the petitioner is modified to that already undergone.

With the above modification in order of sentence, revision petition is dismissed.

August 03, 2007 **(MEHTAB S.GILL)**
ska **JUDGE**

WHETHER TO BE REFERRED TO REPORTER? YES/NO